IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Applicant: Leonard E. Marchese   Conf. no.: 1815

Serial No.: 09/613,980   Art Unit: 2451

Filed   : 07/11/2000   Examiner: Khanh Q. Dinh

For   : ELECTRONIC SPACE AND METHOD FOR PROVIDING

            RESOURCES TO FACILITATE IDEATION

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

Enclosed herewith is a Reply Brief submitted on behalf of the Applicant in response to the Examiners' Answer, mailed on June 25, 2009.

Respectfully submitted,

/William J. Sapone/

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Docket No.:757/9-1538

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REPLY BRIEF

Sir:

This is a Reply to the Examiner's Answer mailed on June 25, 2009.

The Examiner has erred in several respects in the analysis of the specific claim

limitations relative to the prior art, and also in understanding the basis for determining

anticipation. Quite simply, the examiner continues to ignore that each independent claim

incorporates an "intelligent agent" application, as that term is interpreted, consistent with the

specification, and a "dispatcher", responsive to the intelligent agent (claim 21) used for locating

resources and tools to assist the user. (P. 5, l. 3-7; P.10, l.15-18; P.14, l.20 - P.15, L.5; P. 17, L.

8-12). The dispatcher locates resources on request, providing tools for creating reports, graphics,

letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p.

15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the intelligent agent and dispatcher, a user can increase the speed at which a solution is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting. In other words, the intelligent agent provides for very dynamic user interaction, to facilitate problem solving.

It is important to review the specific claim language in an anticipation rejection.

Claim 21 recites: "an intelligent agent application supported on the host/server for interacting with each user accessing an individualized electronic room;

means for monitoring the intelligent agent and means for engaging a dispatcher for locating resources and tools for the user responsive to the intelligent agent..".

Claim 26 recites: "an electronic intelligent agent application integrated with the electronic space and programmed for interaction with at least one user within the individualized electronic room space, and at least one iconic image representing means for engaging a dispatcher for locating resources and tools for the user."

Claim 32 recites: "providing an intelligent agent application programmed for interaction with the user within the electronic room space;

using the intelligent agent to view and select the activatable links for incorporation in the electronic room space, and

providing access to a dispatcher for locating resources and tools for the user."

Rather than comparing the language, that is, the entire claim limitation to the art, the examiner makes a blanket statement: "Kirk discloses an intelligent agent application supported on the host server (cospace server 409 fig. 4) for interacting with each user (using the cospace

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software capable of interfacing with the cospace server and receiving Virtual Reality (VR) room description data corresponding to the requested hypertext file including portals to other users' rooms and their descriptions and displaying the 3D-VR environment to the users', see col. 8, lines 6-66).

While mingling language from the claim into the analysis, the description is merely of a background software system which supports the 3D environment, not an intelligent agent which interacts with a user directly as described and claimed above. The Examiner fails to even indicate how or where the "dispatcher" is found in Kirk.

Looking at Kirk as one skilled in the art would, the cospace server does not interact at all with any user, it is responsive but not interactive. The co-space server is configured as "a receiver, a virtual three dimensional room builder, and a sender." Col. 6, l.47-50. In other words, it runs in the background to support the 3D environment:

> The cospace server 409 tracks the state of each client, including which hypertext files they have requested, which hypertext file the browser on that client is currently displaying, and which 3-D VR rooms and portals currently being displayed on the client. The cospace server uses this information to send the newly constructed 3-D VR room description to all clients that will need to add the room to their 3-D VR environment. All clients for whom the new room or portals will be visible will need to render the new three dimensional room description on their client's display. (Col. 6. l. 63-col. 7, l. 5)

The co-server is used to set up a VR room and coordinate the VR rooms for multiuser use through interaction with the clients, that is local computer displays, not through any specific interaction with a user. The co-server, similar to other servers, operates in the background. It does not interact with the user. The cospace server software is not an intelligent agent as claimed, there is no dispatcher for locating resources, and certainly no icon for engaging a

dispatcher for locating resources and tools for the user. The cospace server merely supports a multiuser virtual environment.

The Examiner has failed to give due consideration to the plain words of the claim, relative to what the intelligent agent is and does as described in the specification, and so the examiner has overly broadened the claim term beyond the 'broadest reasonable interpretation consistent with the specification". By failing to properly review the limitations as a whole, and branding any software which performs a function as an intelligent agent, the examiner has improperly rejected the present claims.

Moreover, the examiner has not even given attempted to present how the dispatcher responsive to the intelligent agent, and icon for engaging the dispatcher are found in Kirk.

Anticipation requires <u>strict identity,</u> without guessing what the reference discloses. <u>Dayco Products, Inc. V. Total Containment Inc.,</u> 329 F.3d 1358 (Fed. Cir. 2003). A claim cannot be "anticipated" by prior art that does not have all of the limitations in the claim. Helifix Ltd. v. Blok-Lok, Ltd., 208 F.3d 1339, 1346 (Fed. Cir. 2000);

"The term "anticipation" in patent usage means that the invention was previously known to the public; that is, that it previously existed <u>in the precise form in which it is claimed,</u> <u>including all of the limitations in the claim</u>." SmithKline Beecham Corp. v. Apotex Corp., 439 F.3d 1312, 1324 (Fed. Cir. 2006) (Emphasis Added.)

Since Kirk does not contain all of the claim elements, claims 21, 26 and 32, and the claims depending therefrom meet the statutory requirements for patentability, and reversal of the rejection is respectfully requested.

Dated: August 24, 2009   Respectfully submitted,

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